GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute.—Industrial Dispute between the workmen and the Management of New Taj Mahal Cafe (P) Ltd., Mangalore.

Award of the Labour Court, Mangalore—Published.

Read the following Papers

(1) Letter No. A/ID 59/72-73, dated 23rd September 1972 from Sri B. Hanumanthaiah, Presiding Officer, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE

Dated 22nd September 1972.

Reference (ID) (LCM) No. 59 of 1968 (3 of 1968)

Present

Sri B. Hanumanthaiah, B.Sc., LLB., ... Presiding Officer

Between:

The workmen, represented by the Secretary, Vanijya Shramika Sangha, Felix Pai Bazaar, Mangalore-1. ... *I Party.*

and

The Management of M/s. New Taj Mahal Cafe (P) Ltd., Mangalore. ... *II Party.*

AWARD

The Government of Mysore being of opinion that an industrial dispute exists between the workman and the management of M/s. New Taj Mahal (P) Limited, Mangalore, referred it under Section 10 (1) (c) of the Industrial Disputes Act 1947, *vide* Order No. FCL 886 LLD 67, dated 8th January 1968 to the Labour Court at Hubli setting out the following points of dispute for adjudication:

> "Is the management of New Taj Mahal Cafe (P) Limited, Mangalore, justified in terminating the services of Mr. Manjappa Moolya, worker from 13th March 1966?
>
> If not, to what relief the workman is entitled?"

2. On receipt of the reference on 10th January 1968 it was registered as Reference (ID) (LCM) No. 3 of 1968 on the file of the said Court, and notices were issued to the parties for filing the claim and counter statements on 5th February 1968 and 16th February 1968 respectively. Before the parties filed their claim and counter statements in the said Court, this case was transferred to this Labour Court at Mangalore *vide* Government Notification No. FCL 375 LLE 67, dated 17th March 1968, on receipt of which on 29th July 1968 it was registered as Reference (ID) (LCM) No. 59 of 1968 on the file of this Court. The first party workman is represented by Sri P. Ghate, Vice-President, Vanijya Shramika Sangh, Mangalore. The second party is represented by its learned representative Sri K. R. Putturaya. The first party has filed his claim statement on 24th August 1968. The second party management has filed its counter statement on 11th September 1968.

3. The dispute in this case is with respect to the order of dismissal made by the second party management against the first party workman Sri Manjappa Moolya. In the claim statement filed by the first party it is stated that on 13th March 1966 the workman was apprehended by the police on a complaint filed by the second party management, and he was prevented from doing his duties. As soon as he got himself released on bail, he reported for duty but he was not allowed to do so by the II Party. That the second party issued him a notice charging him with the theft of oil tin and requiring him to show casue against the charge. That the workmtn denied the charge and requested the second party not to proceed with the enquiry since the case was pending in the Magistrate's Court on the same charge. He pointed out that he could not participate in the enquiry and give any statement since the criminal case was pending. Still the second party held the so called enquiry and passed an order of dismissal on 14th April 1966. That the workman was found not guilty of theft by the Magistrate and the criminal case ended in acquittal. It is also alleged that the order of dismissal with retrospective effect is bad in law. It is therefore prayed that the order of dismissal may be set aside and the second party may be directed to reinstate the first party workman.

4. The second party has in its counter statement stated that the workman was caught red handed by the watchman of the second party management and others while committing the offense of theft and therefore a complaint was filed against him. It is also stated that a written enquiry was held and the workman was

present during the enquiry till the third witness was examined and then he did not participate in the enquiry.' The workman did not cross-examine the witnesses though he was given full opportunity, and he has refused to sign the enquiry papers. From the evidence led and recorded during the enquiry, the charges levelled against the workman was proved, and therefore, the management passed an order of dismissal with effect from 13th March 1966. Thus it is contended on behalf of the management that the order of dismissal is valid.

5. The second party had filed a writ petition in writ petition No. 5760/1969 before the Honourable High Court of Mysore challenging the validity of the order of reference and for issue of a writ of prohibition for bearing this Court from proceeding with the reference. The Honourable High Court has dismissed the writ petition filed by the second party management. After the dismissal of the writ petition, the case was posted for evidence to 17th March 1972. Thereafter this case was being adjourned from time to time since both the parties represented before Court that they were negotating for settlement. On 16th September 1972 the case was finally posted to 18th September 1972 for evidence.

6. On 18th September 1972 both the parties filed a Joint Memo of settlement. The first party being represeated by Sri. P. Ghate, Vice-President, Vanijya Shramika Sangh, and the second party being represented by its learned representative Sri. K. R. Putturaya, the execution of the joint memo is admitted by Sri P. Ghate and Sri K. R. Putturaya. They pray that an Award may be passed in terms of the Joint Memo.

7. Under the terms of the Joint Memo, the second party has agreed to pay a sum of Rs. 350 (Rupees three hundred and fifty only) in full and final settlement of all the claims of the first party workman concerned, and the first party workman has agreed to accept the amount in full and final settlement of all his claims. It is also agreed that the second party will pay the amount on or before 25th September 1972. The first party workman is represented by his learned representative Sri P. Ghate who is also the Vice-President of Vanijya Shramika Sangha. There are no reason to find that the settlement has been reached between the parties under any coercion or threat. Having regard to the fact that the first party workman is represented by the Vice President of Vanijya Shramika Sangh, I find that the settlement has been reached between the parties out of their own free will and it is

fair and equitable. Therefore, I accept the settlement as recorded in the Joint Memo filed by the parties and make the following Award :

The Award is passed in terms of the Joint Memo of settlement which shall form part of this Award. The parties shall bear their own costs.

Mangalore,

Dated : 22nd September 1972.

Sd.

B. HANUMANTHAIAH,

Presiding Officer,

Labour Court, Mangalore.

APPENDIX

BEFORE THE LABOUR COURT AT MANGALORE

(ID) (LCM) NO. 59 of 1968

Between :—

The Workman of New Tajmahal Cafe (P) Ltd., Mangalore.
... *I Party*

and

The Mangement of New Tajmahal Cafe (P) Ltd., Mangalore.
... *II Party*

JOINT MEMO OF SETTLEMENT

Both the parties submit that the dispute has been settled amicable between the parties on the following terms:—

TERMS OF SETTLEMENT

1. The II party agrees to pay Rs. 350 (Rupees three hundred and fifty only) in full and final settlement of all the claims of the I party workman concerned including the claims of reinstatement made in this dispute.

2. The I party workman concerned agrees to accept the amount referred to above in full and final settlement of all his claims in this dispute including the claim of reinstatement.

3. The II Party will pay the amount as per term No. 1 on or before 25th September 1972.

4. Parties pray that an Award may be passed in terms of this Joint Memo.

Pray accordingly.

Mangalore, 18th September 1972. (Sd.) Prabhakar Ghate I Party (Sd.) K. R. Putturaya. II Party

Filed in Court.

(Sd.) B. HANUMANTHAIAH,
Presiding Officer,
Labour Court, Mangalore.

'TRUECOPY'

B. HANUMANTHAIAH,
Presiding Officer,
Labour Court, Mangalore.

ORDER.

Bangalore, dated 18th October 1972.

S. O. 120.—WHEREAS by State Government order No. FCL 886 LLD 67 dated 8th January 1968 the Industrial Dispute between the workmen and the management of New Taj Mahal Cafe (P) Ltd, Mangalore was referred to the Labour Court, Mangalore for adjudication.

AND WHEREAS the Labour Court, has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes' Act, 1947 (Central Act No. XIV of 1947), the Government of Mysore, are pleased to direct the publication of the said Award as above in the *Mysore Gazette*.

[No. FCL 178 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,

Under Secretary to Government,

1023 *Food, Civil Supplies and Labour Department.*